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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,588	08/01/2001	Juergen Wrede	10191/1899	5996
26646	7590	03/21/2006	EXAMINER	
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			ISMAIL, SHAWKI SAIF	
			ART UNIT	PAPER NUMBER
			2155	
DATE MAILED: 03/21/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/920,588	Applicant(s) WREDE, JUERGEN	
	Examiner Shawki S. Ismail	Art Unit 2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

RESPONSE TO AMENDMENT

1. This communication is in response to the amendment filed on January 19, 2006.
Claims 1, 2, 13 and 17-18 have been amended.
Claim 16 has been cancelled.
Claims 1-15 and 17-20 are pending

The New Grounds of Rejection

2. Applicant's amendment and arguments received on October 26, 2005 have been fully considered, however they are deemed to be moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 1, the step of "loading the stored data into the respective processing unit on the other of the user side and the provider side" is unclear to the examiner. Examiner is unclear what "the other of the user side" means.

As to claim 13, the step where "the buffered data being transmitted to the respective data processing unit on the other of the provider and user side" is unclear to the examiner. Examiner is unclear what "the other of the provider side" means.

Claim 1 recites the limitation "the other of the user side". There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the limitation "the other of the provider side". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-15 and 17-20, are rejected under 35 U.S.C. 103(a) as being unpatentable over **Brunemann et al, (Brunemann)** U.S. Paten No. **6,487,717** in view of **Tsumura** U.S. Patent No. **6,018,726** and further in view of **Levy** U.S. Patent No **6,493,676**.

7. As to claims 1, 2, and 13, Brunemann teaches a method for transmitting data between a respective data processing unit on a provider side and a respective data processing unit on a user side, the respective data processing unit on the provider side and the respective data processing unit on the user side in each case being operatively connected to a respective transmitting/receiving device for at least one of wireless transmission and wireless reception of data (abstract.) Brunemann teaches a memory location and database for storing of data received at both the user and provider side (see Fig. 2 and Fig. 3). However, Brunemann does not explicitly teach a buffer storage for storing the data. Brunemann does not explicitly teach loading the stored data into

the processing unit of the user and provider side only during an existence of a predefined operating state.

Tsumura teaches a system for automatically billing information services in conjunction with utilities services. The system includes a main unit and terminal unit. The terminal units receive data of various type tagged with a unique data identification code and they are also provided with a utilization status counter for storing data identification codes of data actually executed. A buffer is utilized for temporarily storing transmitted or received data (col. 7, lines 29-65). Stored data is then loaded to the processing unit to calculate service fees based on the stored data when the main unit transmits the appropriate data at regular intervals (col. 2, lines 45-60.)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Brunemann and Tsumura to use a buffer to store data received and then to load the data based on predefined operating state because it is faster and would reduce the processing time. A buffer acts as a flow control, which would transmit the data at a speed that the receiving unit can handle, which would otherwise cause overflow.

Brunemann and Tsumura do not explicitly teach wherein the predefinable operating state of the vehicle is when the vehicle is not moving.

Levy teaches a system and method for charging for vehicle parking through the use of mobile parking units. Each of the mobile units checks its location whenever the vehicle is not moving (operating state of the vehicle) and if the location coincides with a known parking area, a charge for parking is activated until the vehicle resumes traveling

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(col. 2, lines 11-27). The power delay unit maintains power to the mobile unit for as many hours as the timer was set for starting from the time the ignition switch is switched off (col. 11, lines 30-42).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Brunemann, Tsumura and Levy to use predefinable operating state of the vehicle (not moving) to load data into the processing unit on the user side and to maintain a power supply of the processing unit for a pre-settable time after the ignition has been turned off because doing so will make it easier to use the vehicle's sensors to determine if the vehicle is in the predefined operating state. The sensor are already available and would not require as much work to download the data off of them or to manipulate them as one sees fit.

8. As to claims 3 and 14, Brunemann teaches the method as recited in claim 2, wherein the data is one of a program and software (col. 2, lines 33-41).

9. As to claims 4 and 15, Brunemann teaches the method as recited in claim 2 wherein the respective data processing unit on the provider side is a server (col. 4, lines 13-20).

10. As to claims 5, Brunemann teaches the method as recited in claim 2, wherein the respective data processing unit on the user side is a programmable control unit in a motor vehicle (col. 3, lines 57-66).

11. As to claims 6-8, and 17, Brunemann teaches a method for transmitting data between a respective data processing unit on a provider side and a respective data processing unit on a user side, the respective data processing unit on the provider side

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and the respective data processing unit on the user side in each case being operatively connected to a respective transmitting/receiving device for at least one of wireless transmission and wireless reception of data (abstract). Brunemann and Tsumura do not explicitly teach a predefinable operating state of the vehicle where it is at least one of i) the motor vehicle is stationary, ii) a parking brake is set, iii) an ignition is switched off, iv) a driving switch is turned off, and v) an ignition key is withdrawn. Brunemann also does not explicitly teach maintaining a power supply of the respective data processing unit on the user side for a pre-settable time after at least one of: i) switching off the ignition, and ii) withdrawing the ignition key of the motor vehicle.

Levy teaches a system and method for charging for vehicle parking through the use of mobile parking units. Each of the mobile units checks its location whenever the vehicle is not moving and if the location coincides with a known parking area, a charge for parking is activated until the vehicle resumes traveling (col. 2, lines 11-27). The power delay unit maintains power to the mobile unit for as many hours as the timer was set for starting from the time the ignition switch is switched off (col. 11, lines 30-42).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Brunemann, Tsumura and Levy to use predefinable operating state of the vehicle to load data into the processing unit on the user side and to maintain a power supply of the processing unit for a pre-settable time after the ignition has been turned off because doing so will make it easier to use the vehicle's sensors as the predefinable operating state. The sensor are already available

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and would not require as much work to download the data off of them or to manipulate them as one sees fit.

12. As to claims 9, 10, and 18, it contains similar limitations as in claim 1; therefore it is rejected under the same rationale.

13. As to claims 11 and 19, Brunemann teaches the method as recited in 9, wherein the central vehicle computer is connected via a bi-directional data bus to at least one data processing unit on the user side (col. 5, lines 36-60).

14. As to claims 12 and 20, Brunemann teaches the method as recited in claim 2, wherein the respective data processing unit on the user side includes at least one of: an engine management, an ABS system, an ELB system, an electronic stability program, a pneumatic suspension, a transmission-shift control, and a retard control (col.1, lines 14-45).

Response to Arguments

15. Applicant's arguments with respect to claims 1-15 and 17-20 have been fully considered but are not deemed to be persuasive. Applicant argues in substance that:

(A) Argument: Applicant argues in substance that none of the cited prior art shows that the loading of the data (i.e. reprogramming) into the vehicle control unit is done only when the vehicle is not moving.

Response: Levy teaches a system and method for charging for vehicle parking through the use of mobile parking units. Each of the mobile units checks its location whenever the vehicle is not moving (operating state of the vehicle) and if the location coincides with a known parking area, a charge for parking is activated until the vehicle resumes

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traveling (col. 2, lines 11-27). The vehicle needs to be in the predefined state before charging begins and therefore Brunemann, Tsumura and Levy meet the scope of the claimed limitation.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawki S Ismail whose telephone number is 571-272-3985. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached at 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shawki Ismail
Patent Examiner
March 17, 2006



SALEH NAJJAR
SUPERVISORY PATENT EXAMINER